

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	:	<b>CASE NO. CR-1-02-054</b>
	:	
	:	<b>HONORABLE SUSAN J. DLOTT</b>
<b>vs.</b>	:	
	:	
	:	
<b>WALTER MEADE PUGH, JR.</b>	:	<b><u>UNITED STATES' MOTION TO</u></b>
	:	<b><u>SCHEDULE TRIAL IN ACCORDANCE</u></b>
<b>TYREESE DORRAN PUGH</b>	:	<b><u>WITH THE SPEEDY TRIAL ACT</u></b>

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The United States, by and through the undersigned Assistant United States Attorneys, hereby files the following Motion to Schedule the Trial in accordance with the Speedy Trial Act. The Speedy Trial Act provides in pertinent part:

If the defendant is to be tried again following an appeal or a collateral attack, the trial shall commence within seventy days from the date the action occasioning the retrial becomes final, except that the court retrying the case may extend the period for retrial not to exceed one hundred and eighty days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from passage of time shall make trial within seventy days impractical. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section.

18 U.S.C. § 3161(e). The act further provides that the following delay is excludable from the speedy trial clock: "delay resulting from transportation of any defendant from another district . . . except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable." 18 U.S.C. § 3161(h)(1)(H). The date of the mandate was May 25, 2005. This Court received the Mandate on May 27, 2005, and it was entered on May 31, 2005 (R. 90). The Court ordered the defendants be transferred to this jurisdiction on July 13, 2005 (R. 92 and 93). Walter

Pugh was located in California at the time of the Court's order.

The United States submits that it would be appropriate in this instance to set this matter for trial within 180 days of the mandate because certain factors make the trial within seventy (70) days impractical including, but not limited to:

1. The need to locate witnesses for both the defendants and the government;
2. Transportation of the defendants to this jurisdiction (Walter Pugh from California);
3. Departure of lead trial counsel for the United States, as well as new trial counsel for defendant Tyreese Pugh, *see, e.g., United States v. Hernandez*, No. 92-50747, 1994 WL 502638 (9th Cir. Sept. 13, 1994) (memorandum) (suggesting that the departure from government service of the trial AUSA and case agent and the need to round up long-shelved files are properly considered "other factors");
4. Difficulty of obtaining previous counsel's files;
5. A year-long planned vacation of a Detective Calhoun – a key government witness (Detective Calhoun has paid a significant non-refundable fee for the vacation);
6. Potential Motions by the Defense;
7. The United States Solicitor General seeking a continuance in the United States Supreme Court in order to consider whether to file a petition for certiorari; and
8. Other pressing legal matters of counsel.

For all of these reasons, the United States respectfully requests that the Court set the trial date within the 180-day time frame.

The United States has consulted with counsel for the defendants, as well as the Court clerk, Steve Snyder. Based on these discussions, the parties have agreed to the following dates:

Motions Deadline: October 3, 2005

Response Deadline: October 13, 2005

Jury Trial: November 14, 2005

This will provide ample time to allow the parties to prepare for trial and is within 180 days from

the mandate.

Respectfully submitted,

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s/Amul R. Thapar  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing United States' Motion to Schedule Trial in Accordance with Speedy Trial Act was filed with the Court's CM/ECF System this 29th day of August, 2005, which provides electronic notice to all parties.

s/ Amul R. Thapar  
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